

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROSELYNN NICE,

Plaintiff,

v.

CIVIL NO. 2:23-CV-7
(KLEEH)

THERESA TURNER,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 6] AND
DISMISSING ACTION WITHOUT PREJUDICE

On May 3, 2023, the pro se Plaintiff, Roselynn Nice ("Plaintiff"), filed a Complaint against the Defendant, Theresa Turner ("Defendant"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On May 10, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice for lack of subject matter jurisdiction. In the alternative, the Magistrate Judge recommends dismissal for failure to state a claim.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely

NICE V. TURNER

2:23-CV-7

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 6] AND
DISMISSING ACTION WITHOUT PREJUDICE**

file objections . . . will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.” Plaintiff accepted service of the R&R on May 12, 2023. She submitted a filing on May 26, 2023, which the Court liberally construes as objections.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). An objection must be specific and particularized to warrant such review. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007). Otherwise, the Court will uphold portions of a recommendation to which a general objection or no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Midgette, 478 F.3d at 622.

Plaintiff objected to the R&R on May 12, 2023, but the vagueness of the objections relieve the Court of its obligation to conduct a de novo review. Midgette, 478 F.3d at 622. Plaintiff does not direct the Court to any specific error in the Magistrate Judge’s proposed findings or recommendations. Instead, she merely repeats her earlier allegations, making it all the more clear that this case is about a custody dispute regarding her daughter.

Therefore, the Court has reviewed the R&R for clear error. Diamond, 416 F.3d at 315. Finding none, it **OVERRULES** Plaintiff’s

NICE V. TURNER

2:23-CV-7

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 6] AND
DISMISSING ACTION WITHOUT PREJUDICE**

objections [ECF No. 24] and **ADOPTS** the R&R in its entirety [ECF No. 6]. This action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction and shall be **STRICKEN** from the Court's active docket. All other pending motions [ECF No. 2] shall be **TERMINATED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested.

DATED: June 2, 2023



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA